

### REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 14, 2007. At the time of the Office Action, Claims 1-14 were pending in this Application. Claims 1-14 were rejected. Applicant respectfully requests reconsideration and favorable action in this case.

#### Priority

Applicant appreciates Examiner's acknowledgement of Applicant's claim for foreign priority based on an application filed in Germany August 31, 2001. In accordance with 37 C.F.R. 1.55, Applicant intends to submit a certified copy of the aforementioned priority application upon receipt of favorable action in the present application and prior to payment of any issue fees.

#### Drawing objections:

Drawings were objected to because the Examiner is stating *the rotor, vanes, cam ring, side plate, pump casing* need to contain the shading scheme which represents a *plastic*. Applicant respectfully disagrees. The specification does not state that all the elements such as the *vanes, cam ring, side plate, and pump casing* have to be made of plastic. With respect to the embodiment shown in the figures, the specification only states with respect to Figure 6 that the spring is made of steel. see, specification, paragraph [0027]. However, figure 6 does not show any hatching. The specification further states that the spring can be made from either steel or plastic. See, for example, paragraphs [0008] and [0013]. The specification further only defines the rotor to be made of plastic. Only the dependent claims, for example, claims 5 and 12 include the optional limitation that certain parts of the pump can be made of plastic. The specification with respect to the figures that show hatchings does not define which parts are made of plastic and steel except for the rotor which is made of plastic. Thus, Applicant believes that the figures do not need to be amended.

**Rejections under 35 U.S.C. §103**

Claims 1, 6, 8 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Publication No. JP 62-000684 filed by Taguchi ("Taguchi"). Applicant respectfully traverses and submits Taguchi does not render the claimed embodiment of the invention obvious.

Claims 1-4, 6, 8-11, and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Publication No. JP 56-151296 filed by Udonon et al. ("Udonon"). Applicant respectfully traverses and submits Udonon does not render the claimed embodiment of the invention obvious.

Claims 5 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Udonon in view of design choice. Applicant respectfully traverses and submits the cited art does not render the claimed embodiment of the invention obvious.

Claims 7 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Udonon in view of design choice as applied to Claims 1 and 8 above, and further in view of German Publication No. DE 1005007602 filed by Grossner ("Grossner"). Applicant respectfully traverses and submits the cited art does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

The Examiner stated that *Taguchi* teaches all the limitations of independent Claims 1 and 8 except that the rotor being made of plastic being designated as duroplast. Applicant respectfully disagrees. According to the independent Claims 1 and 8, the spring elements are captively molded into the rotor. This limitation is shown in Figs. 1, 3, and 5. *Taguchi* neither teaches nor suggests to captively mold the spring elements into the rotor. On the contrary, *Taguchi* explicitly states that “a corrugated spring 17 made of superelastic alloy is fitted to a holding implement 18 at the deepest part of said slit, to be inserted in said slit...” See, *Taguchi*, abstract, lines 7-8. Hence, *Taguchi* clearly discloses to insert the spring arrangement 17, 18 into the slit and does not disclose to captively mold the spring elements into the rotor.

With respect to *Udono* (JP 56151296), the Examiner again stated that the spring disclosed by *Udono* is captively molded into the rotor. Applicant respectfully disagrees. *Udono* discloses a vane actuating body 23 consisting of a ring 24 with elastic projection pieces 25. however, *Udono* fails to disclose to captively mold this part into the rotor. on the contrary, the Figure clearly shows that this part is merely inserted and held in place and not captively molded into the rotor. Hence, *Udono* fails to disclose or suggest this limitation.

In summary, none of the cited references discloses or suggests to provide for a rotor into which spring elements are captively molded as included in the independent Claims 1 and 8. Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claims 1 and 8 to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

**CONCLUSION**

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,  
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A handwritten signature in black ink, appearing to read 'A. Grubert', with a long horizontal flourish extending to the right.

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Date: August 30, 2007

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